

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 8050

BILL NUMBER: HB 1997

DATE PREPARED: Jan 25, 2001

BILL AMENDED:

SUBJECT: Bail and Bail Procedure.

FISCAL ANALYST: Mark Goodpaster

PHONE NUMBER: 232-9852

FUNDS AFFECTED: X **GENERAL**
 X **DEDICATED**
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

(A) It provides that if a defendant was admitted to bail by depositing cash or securities in an amount not less than 10% of the bail and failed to appear as ordered, the court must declare the cash or securities and the remainder of the bail forfeited. It provides that judgment may be withheld for 120 days. It provides that, if the cash or securities and the remainder of the bail has been forfeited or the 120-day period has expired, the court: (1) may not release the defendant on personal recognizance; (2) may not set bail for the rearrest of the defendant at an amount less than the original bail; and (3) may only readmit the defendant to bail under certain circumstances.

(B) It provides that, if a defendant executed a bail bond, deposited cash or securities in an amount equal to bail, or executed a bond secured by real estate and failed to appear as ordered, the court must issue a warrant for the defendant's arrest and declare the bail bond forfeited. It provides that, after a bond has been forfeited, the clerk must immediately mail notice of forfeiture to the defendant. It provides that, unless the court finds that there was justification for the defendant's failure to appear within the 120 days after the date the notice was mailed, the court must immediately enter judgment against the defendant for the amount of the bail the day after the 120-day period expires.

Effective Date: July 1, 2001.

Explanation of State Expenditures:

Explanation of State Revenues: *Provision A* would expand the types of sureties that would be available for paying civil judgments: from the 10% cash deposit (under current statute) to also include surety bonds, full cash, or real estate used to produce bail for the defendant prior to trial. This could reduce the amount of forfeited revenues deposited in the Common School Fund. This is because instead of these assets being forfeited to the Common School Fund, they would now be available to pay an injured party who files a civil lawsuit against the criminal defendant for damages the injured party suffered as a result of the defendant's criminal actions.

Explanation of Local Expenditures: This bill could increase the number of criminal defendants who would remain in jail prior to trial if they cannot afford a bail bond. The Indiana Sheriffs Association estimates that the daily cost of incarcerating one person in jail is \$44.

Explanation of Local Revenues: Any effects from this bill will depend on the number of criminal defendants who fail to appear in court when ordered to do so. The percentage of cases where criminal defendants fail to appear in court hearings is not known. As proposed, criminal defendants failing to appear at a scheduled court hearing would be required to either execute a bail bond, deposit cash or securities in an amount equal to bail, or execute a bond secured by real estate.

If a criminal defendant executes bail with a bail bondsman and fails to appear in court, a Late Surrender Fee (based on a percentage of the value of the bond) is assessed against the bondsman. Half of the revenue from the Late Surrender Fee is deposited in the Police Pension Trust Fund and the other half is deposited in a County Extradition Fund. This bill potentially increases revenue from the Late Surrender Fee if more criminal defendants use a bail bondsman and fail to appear in court. In addition, if the bondsman does not return a criminal defendant within 210 days of the notice of the defendant's failure to appear, the court declares 30% of the face value of the bond to be forfeited. The forfeited amount is deposited in the Common School Fund. Local governments reported receiving \$820,023 in CY 1999 from the Late Surrender Fee.

State Agencies Affected:

Local Agencies Affected: Trial courts, county jails.

Information Sources: 1999 Indiana Judicial Service Report, Executive Summary.